

MEMO ENDORSED

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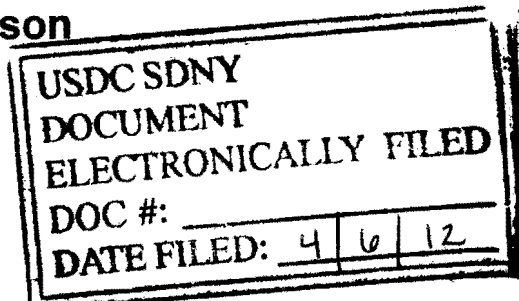
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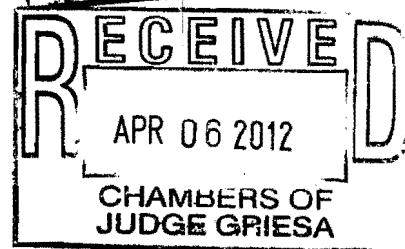
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April 5, 2012

By e-mail to: erin_smith@nysd.uscourts.gov (2 pages)

Hon. Thomas P. Griesa, U.S.D.J.
Southern District of New York
Daniel Patrick Moynihan United States Courthouse
500 Pearl St.
New York, NY 10007-1312



Re: *Hypoxico, Inc. v. Colorado Altitude Training, LLC*, et al.
S.D.N.Y. 01:02-cv-6191 (TPG)

Dear Judge Griesa:

As you may recall, I, along with my co-counsel Alan Tenenbaum, Esq., represent Hypoxico, Inc. ("Hypoxico"), the plaintiff in the above-captioned patent infringement case, in which the jury returned a verdict of infringement on February 10, 2012. The defendants are Colorado Altitude Training, LLC ("CAT") and its founder, Mr. Lawrence Kutt ("Mr. Kutt").

There are currently pending two post-trial motions, Hypoxico's Motion for an Injunction, Pre-Judgment Interest and an Accounting ("Hypoxico's Motion", D.E. 199) and CAT's Motion for JMOL or, in the alternative a New Trial, or Remittitur ("CAT's Motion", D.E. 223).

With the Court's approval (letter endorsed March 23, 2012, D.E. 226), the parties had previously extended all then-forthcoming dates. Now, on the request of Hypoxico, the parties have agreed to a further, short, extension of time for the remaining briefing. This further extension is necessitated by Mr. Tenenbaum's involvement in the case of *Nike v Reebok*, 12-cv-2275, involving a TRO and Preliminary Injunction regarding the sales of certain unauthorized football jerseys, pending before Judge Castel.

The parties have negotiated and agreed upon the following dates for the remaining papers to be filed in respect of the motions herein, and request the Court's approval thereof:

- On or before Friday 4/13: Hypoxico files any opposition to CAT's Motion
- On or before Monday 4/16: Hypoxico files any reply to CAT's Opposition to Hypoxico's Motion

Approved: *Thomas P. Griesa*
USDC 4/6/12

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- On or before Monday 4/30 (or 17 days following Hypoxico's filing of its opposition to the Defendants' Motion, whichever comes first): CAT files its reply papers regarding its Motion

Counsel for the Defendants, Joseph Abraham, Esq., has consented to these dates.

The parties hereby jointly request early consideration and approval of these dates.

Sincerely,

THE LAW OFFICES OF ROGER S. THOMPSON


Roger S. Thompson (RT 2117)

Cc: Joseph Abraham, Esq. (by e-mail)
Alan Tenenbaum, Esq. (by e-mail)